

## **REMARKS**

Claims 62 is amended. Claims 93-96 are added. Claims 57-75 and 78-96 are in the application for consideration.

The undersigned appreciates the Examiner's indicated allowability of the subject matter of claims 57-61, 82-84, 86-88 and 90-92.

The drawings are objected to under 37 C.F.R. §1.83(a). Applicant disagrees and requests reconsideration. Specifically, the Examiner asserts that two barrier layers are recited by and required in claim 57. However, claim 57 is not limited to two discrete barrier layers as the Examiner would apparently assert. Specifically, the operative language in claim 57 is that the conductive diffusion barrier layer comprise at least two or three stated materials. Accordingly, Applicant's drawing depicted conductive diffusion barrier layer could comprise a mixture of two materials as opposed to requiring two separate discrete layers. Such is supported in Applicant's application as-filed in, for example, recitation to "mixtures" in claim 39. As Applicant's depicted conductive diffusion barrier layer in its drawings could comprise a mixture of two of the three stated materials, the drawings are seen to be in full compliance with all of the rules. Accordingly, the Examiner's drawings objection is in error and should be withdrawn. Action to that end is requested.

The undersigned hereby asserts each of the points made in its last office action response as to why the claims still rejected over prior art are allowable in the presently stated form. The undersigned appreciates the Examiner's response to its arguments in the last action so that such can be addressed.

Specifically, the Examiner asserts that Pfiester “would meet Applicant’s claims if a contact structure of the second type P+ is formed therein,” and that a second type contact structure if Pfiester’s device “would contact the semiconductive material of the second type”. Such references to “would meet,” “if,” and “would contact” clearly evidences the Examiner's recognition that Pfiester does not literally or impliedly disclose that which the Examiner asserts. Therefore, the Examiner is essentially asserting that it would be obvious to modify Pfiester to meet the stated limitation.

However, the Examiner is reminded that pursuant to the MPEP §2143.01 that with respect to modifications, the prior art must suggest or motivate modifications to a teaching in a reference. Further, any proposed modification cannot render the prior art unsatisfactory for its intended purpose, nor change the principle operation of a reference. (MPEP §2143.01).

The Examiner’s attention is directed to the fact that Pfiester's teachings are directed to what is known in the art as a “shared gate” (col.1, ln.24). Pfiester's construction includes a first channel region formed in bulk semiconductor substrate material beneath the shared gate and another channel region above the shared gate in a semiconductor layer. Accordingly, modifying Pfiester in the manner suggested by the Examiner would result in a contact opening being formed through its channel 36 and through its upper gate oxide layer 44 and thereby render the Pfiester device inoperative. Accordingly, the modification suggested by the Examiner destroys operability of the Pfiester device, which thereby inherently either or both of renders it unsatisfactory for its

intended purposes or changes a fundamental principle of operation. Accordingly, the proposed modification is in violation of MPEP §2143.01, the reason for the rejection is in error, and the obviousness rejection should be withdrawn. Action to that end is requested.

Each of the assertions made by Applicant in its previous response still apply to the Examiner's rejection, and the rejected claims should be allowed for the reasons there so stated. Action to that end is requested.

Respectfully submitted,

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By: 

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